

(c) - (d) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 18, 2011.

TRD-201100702

Douglas B. Foster

Commissioner

Texas Department of Savings and Mortgage Lending

Earliest possible date of adoption: April 3, 2011

For further information, please call: (512) 475-1350

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CHAPTER 79. MISCELLANEOUS

SUBCHAPTER H. CONSUMER COMPLAINT PROCEDURES

7 TAC §79.122

The Finance Commission of Texas (the Commission), on behalf of the Texas Department of Savings and Mortgage Lending (the Department), proposes to amend 7 TAC §79.122, concerning Consumer Complaint Procedures. The amended rule is proposed to update Department contact information.

The amendment to §79.122 arises from a change in the internet domain name of the Department. In June, 2010, the Department of Information Resources (DIR) unveiled a new official state website, www.Texas.gov. In conjunction with this initiative, all state agencies have changed or will change their respective domain names from the current state.tx.us address to Texas.gov. Accordingly, all of the Department's e-mail and web page addresses have changed from sml.state.tx.us to sml.texas.gov. As a result, the reference in §79.122 to the Department's e-mail address is now incorrect, and eventually will be disconnected. Although DIR and the Department have implemented the Department's domain name change, all old domain addresses will remain functional for an extended transition period. The proposed amendment would update the reference to the Department's e-mail address.

Douglas B. Foster, Commissioner, Texas Department of Savings and Mortgage Lending, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for state government or for local government as a result of enforcing or administering the rule.

Commissioner Foster has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of the proposed amendment will be that the Department's rule will be more accurate. There will be no effect on individuals required to comply with the amendment as proposed. There will be no adverse economic effect on small or micro businesses.

Comments on the proposed amendment may be submitted in writing to Caroline C. Jones, General Counsel, Texas Department of Savings and Mortgage Lending, 2601 North Lamar, Suite 201, Austin, TX 78705 or by e-mail to sm-linfo@sml.state.tx.us within 30 days of this publication in the *Texas Register*.

The amendment is proposed under Texas Finance Code §11.302, which authorizes the Finance Commission to adopt rules to enforce Title 3 of the Texas Finance Code.

The statutory provisions affected by the proposed amendment are contained in Texas Finance Code, Chapter 13.

§79.122. Consumer Complaint Procedures.

(a) (No change.)

(b) Notice of how to file complaints

(1) In order to let its consumers know how to file complaints, state savings banks must use the following notice: The (name of state savings bank) is chartered under the laws of the State of Texas and by state law is subject to regulatory oversight by the Texas Department of Savings and Mortgage Lending. Any consumer wishing to file a complaint against the (name of state savings bank) should contact the Texas Department of Savings and Mortgage Lending through one of the means indicated below: In Person or by U.S. Mail: 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705-4294, Telephone No.: (877) 276-5550, Fax No.: (512) 475-1505, E-mail: sm-linfo@sml.texas.gov [smlinfo@sml.state.tx.us].

(2) - (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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CHAPTER 80. TEXAS RESIDENTIAL MORTGAGE LOAN ORIGINATOR REGULATIONS

SUBCHAPTER B. PROFESSIONAL CONDUCT

7 TAC §80.9

The Finance Commission of Texas (the Commission), on behalf of the Texas Department of Savings and Mortgage Lending (the Department), proposes to amend 7 TAC §80.9, concerning Required Disclosures. The amended rule is proposed to update Department contact information and to amend the Residential Mortgage Loan Originator Disclosure form to be applicable to license types who, prior to the SAFE Act, were not required to be licensed and in anticipation of the April 1, 2011 change in compensation rules by the Federal Reserve.

Amendments to §80.9 arise from a change in the internet domain name of the Department. In June, 2010, the Department of Information Resources (DIR) unveiled a new official state website, www.Texas.gov. In conjunction with this initiative, all state agencies have changed or will change their respective domain names from the current state.tx.us address to Texas.gov. Accordingly, all of the Department's e-mail and web page addresses have changed from sml.state.tx.us to sml.texas.gov.

As a result, the reference in §80.9 to the Department's website address and e-mail address is now incorrect, and eventually will be disconnected. Although DIR and the Department have implemented the Department's domain name change, all old domain addresses will remain functional for an extended transition period. The proposed amendment would update the reference to the Department's website address and e-mail address.

The amendment amends the Residential Mortgage Loan Originator Disclosure form to be applicable to license types who, prior to the SAFE Act, were not required to be licensed and in anticipation of the April 1, 2011 change in compensation rules by the Federal Reserve.

Douglas B Foster, Commissioner, Texas Department of Savings and Mortgage Lending, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for state government or for local government as a result of enforcing or administering the rule.

Commissioner Foster has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of the proposed amendment will be that the Department's rule will be more accurate. There will be no effect on individuals required to comply with the amendments as proposed. There will be no adverse economic effect on small or micro businesses.

Comments on the proposed amendment may be submitted in writing to Caroline C. Jones, General Counsel, Texas Department of Savings and Mortgage Lending, 2601 North Lamar, Suite 201, Austin, TX 78705 or by e-mail to sm-linfo@sml.state.tx.us within 30 days of this publication in the *Texas Register*.

The amended rule is proposed under Finance Code §11.306, which authorizes the Finance Commission to adopt mortgage broker rules as provided by Chapter 156 of the Act, and under Finance Code §156.102, which authorizes the Finance Commission, upon consultation with the commissioner to adopt rules necessary for the intent of or to ensure compliance with the Act.

Finance Code, §156.004 is affected by the proposed amendment.

§80.9. Required Disclosures.

(a) (No change.)

(b) In order to let its consumers know how to file complaints and to inform them of the Mortgage Broker Recovery Fund, Residential Mortgage Loan Originators must include the following notice in the disclosure required by subsection (a) of this section:

Figure: 7 TAC §80.9(b)

[Figure: 7 TAC §80.9(b)]

(c) - (e) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Douglas B. Foster

Commissioner

Texas Department of Savings and Mortgage Lending

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For further information, please call: (512) 475-1350

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**PART 5. OFFICE OF CONSUMER
CREDIT COMMISSIONER**

CHAPTER 83. CONSUMER LOANS

**SUBCHAPTER J. DUTIES AND AUTHORITY
OF AUTHORIZED LENDERS**

7 TAC §83.831

The Finance Commission of Texas (commission) proposes amendments to 7 TAC §83.831, concerning Approval of Electronic Recordkeeping Systems.

In general, the purpose of the amendments to §83.831 is to clarify the software review process conducted by the Office of Consumer Credit Commissioner (OCCC), one of the commission agencies. These revisions are in response to a finding in an audit of OCCC examination procedures. The suggested changes will provide conformance to the agency's current practices and are mostly technical in nature.

The OCCC circulated a draft of these revisions to interested stakeholders. In response to the agency's circulation of the draft, the agency received early or pre-comments prior to the original presentation of the rule to the commission. The OCCC believes that the informal comments received and the participation of stakeholders in the rulemaking process has greatly benefited the resulting proposal. This proposal incorporates some of the industry's input that serves to refine the amendments in certain areas.

The use of the term "reviewed" as opposed to an "approved" non-proprietary software system is proposed. The terminology change to "reviewed" is contained throughout the amendments in order to more appropriately reflect the OCCC's regulatory role concerning software systems. While the OCCC reviews non-proprietary software systems for compliance with the law and directs licensees to perform necessary corrections, licensees maintain responsibility to periodically check their software systems for accuracy and to seek updates to those systems. In other words, the OCCC's review of a non-proprietary system at one point in time does not provide any sort of waiver of the licensee's responsibility. Thus, the agency will continue to conduct the same review of non-proprietary software systems as it has done in the past; however, the proposed "review" language more accurately describes the responsibilities of both parties with regard to those systems.

The last two sentences of §83.831(a) are proposed for deletion, as much of this language is being relocated to new subsection (b). Subsection (b) specifically relates to the software review for licensees under Texas Finance Code, Chapter 342, Subchapters E and F. Section 83.831(b) requires these licensees to use a reviewed software system, maintain a manual recordkeeping system in compliance with §83.828, or use a proprietary software system not sold or distributed to other licensees aside from affiliates. The latter two options for a manual system or proprietary software system have been relocated from subsection (a).